

## Message Text

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ORIGIN EB-07

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

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E.O. 11652: N/A

TAGS: ETRD, RP

SUBJECT: COTTON CONTRACT PROBLEM

REF: MANILA 11079

-- SUGGESTED REPLIES TO ACTING CHAIRMAN OCAMPO'S LETTER TO  
AMBASSADOR SULLIVAN FOR CIEC CONTRACTS AND STARKE-TAYLOR -  
SOLID MILLS CONTRACT FOLLOW:

DEAR MR. CHAIRMAN:

-- I WANT TO THANK YOU FOR YOUR LETTER OF JULY 13,  
REGARDING THE COTTON CONTRACTS BETWEEN YUPANGCO COTTON  
MILLS, INC. AND COTTON IMPORT AND EXPORT COMPANY. YOUR  
EFFORTS TO RESOLVE THIS DIFFICULT PROBLEM ARE GREATLY  
APPRECIATED.

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-- FROM THE BEGINNING, THE YUPANGCO - CIEC CONTRACTS HAVE  
POSED DIFFICULTIES IN OUR TWO GOVERNMENTS' EFFORTS  
TO OBTAIN PERFORMANCE ON OVER-DUE COTTON CONTRACTS.  
DISPUTES BETWEEN THE TWO FIRMS OVER PREVIOUS CONTRACTS AND  
RECOURSE OF ONE OF THE PARTIES TO LEGAL ACTION IMPAIRED  
OUR MUTUAL ABILITY TO CONTRIBUTE TO A SOLUTION OF THE  
PROBLEM. LATER, CHANGES IN THE RELATIONSHIP BETWEEN  
CONTRACT PRICES AND MARKET PRICES HAVE CAUSED THE PARTIES  
TO SHIFT THEIR POSITIONS.

-- GIVEN THE TORTUOUS HISTORY OF THIS DISPUTE, I CANNOT  
PRESUME THAT EITHER GOVERNMENT CAN DO MUCH TO ASSIST A  
SETTLEMENT IN THE ABSENCE OF REAL EFFORTS BY THE PARTIES  
THEMSELVES. DISCUSSIONS BETWEEN THE U.S. OFFICIALS IN  
WASHINGTON AND OFFICIALS OF THE AMERICAN COTTON EXPORTERS'  
ASSOCIATION INDICATE THAT CIEC WOULD BE PREPARED TO  
DISCUSS SERIOUSLY THE TERMINATION OF ITS OVERDUE CONTRACTS  
WITH YUPANGCO, PROVIDED THE LATTER TAKES STEPS TO RELIEVE  
CIEC OF ANY LIABILITY UNDER THE COURT JUDGMENT OBTAINED  
BY YUPANGCO. I HOPE THAT YOU WILL BE ABLE TO BE HELPFUL  
IN THIS REGARD.

-- MY INFORMATION INDICATES THAT PERFORMANCE OF THE  
CONTRACTS APPEARS TO BE A LESS PROMISING MEANS OF RESOLVING  
THIS PROBLEM THAN TERMINATION. PERFORMANCE RAISES SUCH  
QUESTIONS AS DIFFERENCES OVER CARRYING CHARGES, THE CONTRACT  
TO BE COVERED AND THE SEQUENCE OF THEIR SHIPMENT, WITHOUT  
REMOVING THE PROBLEM OF THE COURT JUDGMENT. ALTHOUGH  
THESE DIFFERENCES, IN MY VIEW, CONSTITUTE MAJOR OBSTACLES  
TO SETTLEMENT BY THIS MEANS, YOU SHOULD KNOW THAT ACEA  
REPORTS CIEC HAS NOT CATEGORICALLY REFUSED FURTHER  
EXPLORATION OF THIS COURSE OF ACTION.

-- I LOOK FORWARD TO FURTHER ASSISTANCE ON THIS  
PROBLEM AND HOPE IT CAN BE RESOLVED SOON.

DEAR MR CHAIRMAN:

-- THANK YOU FOR YOUR LETTER OF JULY 13, 1976, REGARDING  
THE COTTON SALE CONTRACT BETWEEN SOLID MILLS, INC. AND  
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STARKE-TAYLOR AND SONS, INC. I WAS SORRY TO HEAR THAT  
THIS REMAINS A PROBLEM.

-- MY GOVERNMENT APPRECIATES THE CONSIDERABLE ASSISTANCE  
YOU AND THE DEVELOPMENT BANK OF THE PHILIPPINES HAVE GIVEN  
TO AMERICAN COTTON EXPORTERS OVER THE PAST YEAR. ACCORD-  
INGLY, I ASKED U.S. OFFICIALS TO DISCUSS THE SOLID MILLS -  
STARKE - TAYLOR AGREEMENT WITH THE AMERICAN COTTON EXPORT

ASSOCIATION. ACEA OFFICIALS NOTED THAT THIS CONTRACT WAS NOT AMONG THOSE COVERED IN FORMER CHAIRMAN VIRATA'S LETTER OF ASSURANCES. THEY REPORT THAT STARKE - TAYLOR CONTINUES TO ASSERT THAT THE CANCELLATION OF THIS CONTRACT WAS LEGALLY JUSTIFIED BECAUSE OF SOLID MILLS' FAILURE, DESPITE REPEATED NOTICE, TO PROVIDE FOR CARRYING CHARGES IN THE LETTER OF CREDIT ISSUED PRIOR TO THE CONTRACT'S TERMINATION. ACEA OFFICIALS FURTHER STATE THAT, IN THEIR VIEW, A MAJOR DIFFERENCE EXISTS BETWEEN CANCELLATION OF A CONTRACT, IN ACCORDANCE WITH ITS PROVISIONS, AND A FAILURE TO PERFORM, WHICH CANNOT BE SO JUSTIFIED, UNDER THE CONTRACT.

-- WHILE I AM AWARE THAT YOU MAY FIND STARKE- TAYLOR'S POSITION UNSATISFACTORY, I AM NOT OPTIMISTIC THAT FURTHER EFFORTS TO CHANGE THAT POSITION WILL BE SUCCESSFUL. ROBINSON

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